IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

-

WRIT PETITION NO: 1136 of 2005

Between:

Potla Ramaiah, S/o.Narsaiah
M.V.Driver, E.No.0957249, Transport Section, R.G.I.Area
Singareni Colleries Company Limited, Ramagundam,

Karimnagar District.

... PETITIONER

AND

1 The Executive Engineer (Auto and TPT), Singareni Colleries

Company Limited,(A Government Company) Ramagundam

Area, Karimnagar District.
2 The Chief Central Manager Singareni Colleries Company Ltd.,
Ramagundam Area, Karimnagar District.
3 The Personal Officer Singareni Colleries Company Limited,
Ramagundam Area, Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any app0ropriate writ order or direction particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in not disposing of the petitioners appeal dated 8-11-2004 as arbitrary illegal and violative of Article 14,16 and 21 of the Constitution of India and consequently direct the 2nd respondent to dispose of the petitioners appeal dt.8.11.2004 file aggrieved by the questioning the letter in Ref.No.RGI/ARS/T/1/4517, dt.23.9.2003, seeking for setting aside of the same and to permit the petitioner in service till 31-5-2010 with all consequential benefits and pas such other orders as may be just.

Counsel for the Petitioner:MR.CHANDRAIAH SUNKARA
Counsel for the Respondents:MR.Nandigam Krishna Rao

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the 2nd respondent in not disposing of the petitioner's appeal/representation dated 08.11.2004 with reference to the determination of the age of the petitioner.

2. According to the petitioner, he was initially appointed as General Mazdoor in the respondent company on 28.9.1970. According to the petitioner, he has stated that his age as on that day was only 20 years. The petitioner was asked to work as Haller Driver-Cum-Fitter. Subsequently, he was promoted as Driver in the year 1979. Again in the year 1988, the petitioner sought for transfer from Transport section to Godavarikhani Inkline. As the service record of the petitioner was verified by Welfare Officer, who informed the petitioner that his age as on the date of joining service was recorded as 27 years, the petitioner represented and produced transfer certificate issued by the Head Master, Z.P.Secondary School, Thorrur, Warangal District, showing that his Date of Birth is 10.5.1950. But, however, according to the petitioner, he was referred to the Medical Board for determination of his age in the year 2003, when the petitioner raised the dispute and the Medical Board after examination and consideration of the claim of the petitioner, granted two years additional benefit over and above from the age originally fixed on the date of appointment. Aggrieved by that the petitioner made an appeal/representation to the second respondent. As the said appeal/representation was not disposed of, petitioner has come up with the present writ petition.

2. At the time of hearing, learned counsel for the petitioner contended that the petitioner was not aware of his date of birth noted in his service register, as he was not informed the same. It is also stated that though the petitioner was promoted more than two or three times, the Date of Birth was not mentioned anywhere. Therefore, the petitioner was not aware of his Date of Birth registered in the records till he was

informed by the Welfare Officer. In view of the school certificate produced by the petitioner, the same ought to have been accepted and the petitioner ought to have been allowed to continue in service till he attains the age of superannuation.

3. A counter is filed disputing and denying the allegations. It is stated that the practice of the respondent/Corporation is that whenever persons like the petitioner are recruited, who did not produce any certificate with regard to educational qualification, age etc., they would be referred to the Medical Board and the age entered in the Service Register as determined by the Medical Board. It is stated that the petitioner raised a dispute long after his joining service and when he raised dispute, his case was also referred to the Medical Board. At the time of reference to the Medical Board, petitioner also gave an undertaking that the decision of the Medical Board would be final and he would not dispute the said decision. But, contrary to the said undertaking, the petitioner made a representation though, in fact, no provision of appeal is provided to the second respondent and sought that the second respondent should consider his case and also filed the present writ petition.

4. Learned counsel for the respondents also filed a copy of the proceedings, where the petitioner had given his undertaking that he would not dispute the decision of the Area Age Determination Committee. When these proceedings are referred, the counsel for the petitioner stated that he has no instructions with reference to the undertaking given by the petitioner.

5. Admittedly, as per the records, the age of the petitioner as on the date of appointment, i.e., 28.9.1970, was determined as 27 years. The petitioner raised dispute only in the year 2003, when he was, in fact, referred again to the committee concerned for redetermination of the age, and, in fact, the petitioner was given benefit of two more years of service. Though, the petitioner was due for retirement by September, 2003 itself, he was allowed to retire by 16th September, 2005. However, the petitioner made his request to the second respondent and also filed the present writ petition. In fact, the age of the writ petitioner has already been recorded in the service register as 27 years as on the date of appointment. Further, on his raising a dispute, the case of the petitioner was referred to the Area Age Determination

Committee, before which he gave an undertaking that he would not dispute the decision of the said committee, and the committee determined that the petitioner should be allowed to retire by 16th September, 2005 granting benefit of two more years over and above the original age fixed at the time of appointment in the Corporation.

6. In view of the above determination by the Committee and the undertaking given by the petitioner, there is absolutely no justification for the petitioner to raise dispute as to the correctness of the age determined by the Area Age Determination Committee. In fact, if the petitioner studied upto 7th class as claimed and was in possession of the School certificate, where his Date of Birth was noted as 10.5.1950, nothing prevented the petitioner from producing the same before the respondent corporation at the time of his appointment in the year 1970 or atleast immediately thereafter. The petitioner did not do so. But only at the fag end of his service, he raised the dispute. Even then the petitioner got benefit of two years as per the decision of Area Age Determination Committee. Further, in view of the undertaking given by the petitioner to accept the decision of the Area Age Determination Committee, it is not open for the petitioner to assail the said decision.

7. In the above circumstances, the writ petition is devoid of merits and the same is accordingly dismissed as there is no statutory provision for entertaining the appeal as claimed by the petitioner. No costs.

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S.ANANDA REDDY, J

Dated: 07.6.2005.

RAR/KVH

To

1 The Executive Engineer (auto and TPT), Singareni Colleries

Company Limited,(A Government Company) Ramagundam

Area, Karimnagar District.

2 The Chief Central Manager Singareni Colleries Company Ltd., ramagundam Area, Karimnagar District.

3 The Personal Officer Singareni Colleries Company Limited, Ramagundam Area, Karimnagar District.

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